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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,779	04/21/2004	Robert P. Bourdelais	85924PAL	5242
7590		11/01/2007		
Paul A. Leipold Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201			EXAMINER NORDMEYER, PATRICIA L	
			ART UNIT 1794	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/828,779	BOURDELAIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Patricia L. Nordmeyer	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6, 8-12, 14-17 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) 20-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8-12 and 14-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The 35 U.S.C. 103 rejection of claims 1 – 3, 5, 6, 8 – 12 and 14 – 17 over Aoki et al. (USPN 6,562,429) in view of Keiser (USPN 5,851,617) and Bourdelais et al. (USPN 6,270,950) in the office action dated June 21, 2007 is withdrawn due to Applicant's amendments in the response dated September 21, 2007.

2. The 35 U.S.C. 103 rejection of claims 13, 18, 19 and 25 over Aoki et al. (USPN 6,562,429) in view of Keiser (USPN 5,851,617), Bourdelais et al. (USPN 6,270,950) and Tsugawa et al. (USPN 5,928,987) in the office action dated June 21, 2007 is withdrawn due to Applicant's amendments in the response dated September 21, 2007.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 3, 5, 6, 8 – 12 and 14 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki et al. (USPN 6,562,429) in view of Keiser (USPN 5,851,617) and Bourdelais et al. (USPN 6,270,950).

Aoki et al. discloses a label stock (Column 1, lines 30 – 33) comprising in order at least

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one pragmatic sheet (Figures 1 – 3, #1), a pressure sensitive adhesive (Column 3, lines 29 – 31; Figure 1, #2) having a thickness between 5 and 100 micrometers, thereby overlapping the claimed range of 12 and 25 micrometers, (Column 7, lines 11 – 14) and a carrier sheet (Figures 1 – 3, #3) adjacent said adhesive (Figure 1, #2 and 3; Column 6, lines 40 – 43) as in claims 1, 4, 6 and 12. The pragmatic sheet of Aoki comprises either cellulose paper or is substantially transparent (Column 3, lines 18 – 25) and would inherently have a bulk modulus of 2000 to 100,000 MPa while being non-pliant and does not have at least a 10% deformation when a load of 1.2 MPa is applied to the surface of the pragmatic sheet. However, Aoki et al. fail to disclose a compliant carrier sheet, the compliant carrier sheet recovering to 90% of the original thickness after compression of between 25 and 50% of the original thickness, recovering 95% of the original thickness in less than 2 seconds after removal of load, having a compliant factor of between 20 and 100 micrometers measured at 1.2 MPa, have a modulus of at least 2500 MPa, be reflective to collimated light energy and have a surface resistivity of less than  $10^{12}$  ohms per, a polyester polymer sheet having at least one voided layer, a release layer between said adhesive, said voided layer and the pragmatic sheet comprising a gelatin layer adjacent to said adhesive.

Keiser teaches a release layer (Figure 2, #20) between said adhesive (Figure 2, #14) and said compliant carrier sheet carrier sheet (Figure 2, #18; Column 4, lines 49 – 67) wherein the compliant carrier sheet would inherent recover to 90% of the original thickness after compression of between 25 and 50% of the original thickness, recover 95% of the original thickness in less than 2 seconds after removal of load, having a compliant factor of between 20 and 100 micrometers measured at 1.2 MPa, have a modulus of at least 2500 MPa, be reflective to

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collimated light energy and have a surface resistivity of less than 1012 ohms per square since the compliant is an air voided polymer layer (Column 4, lines 49 – 47) made of a polyester polymer sheet (Column 6, lines 24 – 39) as part of a label stock release liner (Column 1, lines 47 – 50) for the purpose of having a substrate that exhibits excellent dimensional stability and physical properties under varying conditions (Column 1, lines 58 – 61).

Bourdelaïs et al. teach a polyester polymer sheet having at least one voided layer has a base layer (Abstract, lines 1 – 2) in combination with a pragmatic sheet comprising a gelatin layer adjacent to said adhesive (Column 5, lines 3 – 6) for the purpose of having a photographic paper that is smoother, tear resistant and has a greater resistance to curl (Column 3, lines 25 – 28).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the voided polyester polymer sheet and gelatin layer in Aoki et al. in order to have a substrate that exhibits excellent dimensional stability and physical properties under varying conditions as taught by Keiser, to have a photographic paper that is smoother, tear resistant and has a greater resistance to curl as taught by Bourdelaïs et al.

### ***Response to Arguments***

5. Applicant's arguments filed September 21, 2007 have been fully considered but they are not persuasive.

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In response to Applicant's arguments that the combination of Aoki et al. (USPN 6,562,429), Keiser (USPN 5,851,617), Bourdelais et al. (USPN 6,270,950) and Tsugawa et al. (USPN 5,928,987) fail to disclose a non-pliant pragmatic sheet and does not have at least a 10% deformation when a load of 1.2 MPa is applied to the surface of the pragmatic sheet, the pragmatic sheet of Aoki comprises either cellulose paper or is substantially transparent (Column 3, lines 18 – 25) and would inherently have a bulk modulus of 2000 to 100,000 MPa while being non-pliant and does not have at least a 10% deformation when a load of 1.2 MPa is applied to the surface of the pragmatic sheet. Also, the applicant arguments are not deemed persuasive since arguments cannot take the place of evidence in the record to overcome a rejection. See MPEP 2145. The applicant has failed to show any criticality with regard to the pragmatic sheet being non-pliant while the carrier sheet is a compliant material.

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Patricia L. Nordmeyer  
Examiner  
Art Unit 1794

pln